

REMARKS

This paper is responsive to the Final Office Action mailed October 31, 2008. Claims 15, 16, and 18-30 are pending. Claims 15, 16, 20, 21, and 27-29 are amended to clarify what is claimed. Applicant submits that no new matter is added, as support for the amendments exists in the specification and claims as originally filed.

Rejection Under 35 U.S.C. § 103(a)

The present invention is generally directed to emulsifiable concentrate herbicide compositions. Claims 15, 16, and 18-30 are rejected under 35 U.S.C. §103(a) as unpatentable over Aven (EP 1025757 A1) in view of Hei (6,593283) as evidenced by Sealed Air (MSDS Instapak Port Cleaner, Rev. 006, 03/2005). *See* Office Action at 2. According to the Office Action, Aven does not teach “the co-solvent being a diisobutyl adipate or a mixture of diisobutyl adipate, diisobutyl glutarate, and diisobutyl succinate.” *See* Office Action at 5. To remedy this deficiency, the Office Action relies on Hei, which according to the Office Action teaches, *inter alia*, dibasic esters such as DBE and DBE-IB. *See id.* Moreover, according to the Office Action, Hei teaches that its composition is suitable for application to growing or harvested plant material including leaves, stems, tubers, roots, seeds, and the like. *See id.* The Office Action also cites Sealed Air as disclosing that DBE-IB is a composition comprising 55-70% diisobutyl glutarate, 20-30% diisobutyl succinate, and 10-20% diisobutyl adipate. *See* Office Action at 6. Therefore, according to the Office Action, Hei teaches a composition useful for plant protection wherein the solvents DBE and DBE-IB are suitable alternatives for each other, and it would have been obvious to one of ordinary skill in the art to combine the teachings of Aven and Hei.

Applicants note that claims 15, 16, 20, 21, and 27-29 have been amended to clarify what is claimed.

Emulsifiable concentrates of dinitroaniline compounds often suffer from crystallization at low temperatures or upon mixing with water, which may result in problems including loss of activity or filter clogging. *See* Specification at p. 1, line 26-30. Applicants have discovered that the claimed compositions unexpectedly exhibit reduced crystallization at low temperature and therefore a reduction in the problems associated with unwanted crystallization. *See* Specification at p. 2, lines 31-34 and Example 1. In view of these unexpected results, Applicants respectfully submit that the subject matter of the present claims would not have been obvious to one of ordinary skill in the art. Accordingly, Applicants request withdrawal of this rejection.

CONCLUSION

An indication of allowance of all claims is respectfully solicited.

Respectfully submitted,

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